

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

In re:

USA GYMNASTICS,¹

Debtor.

Chapter 11

Case No. 18-09108-RLM-11

**STATEMENT OF SUPPORT OF ADDITIONAL TORT
CLAIMANTS COMMITTEE OF SEXUAL ABUSE SURVIVORS
OF DEBTOR'S MOTION FOR ENTRY OF AN AGREED STIPULATION
AND ORDER ENJOINING THE CONTINUED PROSECUTION
OF CERTAIN PRE-PETITION LAWSUITS**

The Additional Tort Claimants Committee of Sexual Abuse Survivors (the “Sexual Abuse Survivors’ Committee”) appointed in this case under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) hereby submits its statement in support of the *Motion for Entry of an Agreed Stipulation and Order Enjoining the Continued Prosecution of Certain Pre-Petition Lawsuits* [Docket No. 372] (the “Motion”)² filed the above captioned debtor (the “Debtor”).

1. The Stipulation is the culmination of over a month’s work by the Sexual Abuse Survivors’ Committee, with the help of state court counsel representing Committee members, in procuring the agreement of attorneys in over 100 prepetition lawsuits to which the Debtor is a party (as listed in the Stipulation, the “Prepetition Lawsuits”). The Stipulation, along with the injunction (the “Stay Injunction”) sought by the Debtor in adversary proceeding no. 19-50075 (the “Stay Proceeding”),³ temporarily stays all Prepetition Lawsuits with the objective of

¹ The last four digits of the Debtor’s federal tax identification number are 7871. The location of the Debtor’s principal office is 130 E. Washington Street, Suite 700, Indianapolis, Indiana 46204.

² Unless otherwise noted, capitalized terms used in this objection have the meanings ascribed in the Motion.

³ The Sexual Abuse Survivors’ Committee is filing its *Response of Additional Tort Claimants Committee of Sexual Abuse Survivors to Objections To Plaintiff’s Motion For a Preliminary Injunction Filed by (1) The Karolyi Parties; (2) Richard Carlson; (3) Southern California Acro Team; and (4) Twistars USA Gymnastics Club, et al.* in the Stay Proceeding, which is incorporated herein by reference for all purposes.

allowing Sexual Abuse Claimants, the Sexual Abuse Survivors' Committee, the Debtor, the Debtor's insurers and other parties an opportunity to negotiate a consensual chapter 11 plan without the distraction of litigation.⁴

2. The Sexual Abuse Survivors' Committee anticipates that the Stipulation will create an environment conducive to a negotiated resolution. If the Stipulation and Stay Injunction are not approved, litigation will continue and necessarily embroil the Debtor, at the very least, as a witness in hundreds of cases in multiple jurisdictions. Negotiation of a consensual plan could also be adversely impacted by the continuation of the adversarial relationship inherent between the Sexual Abuse Survivors and the Debtor in the Prepetition Lawsuits. The relationship will be adversarial even if the Debtor is a witness because the Debtor will still be a defendant even though plaintiffs cannot proceed against the Debtor alone because of the automatic stay. As such, approving the Stay and granting the Stay Injunction are a necessary step to calm the waters and allow the parties an opportunity for meaningful negotiations to resolve this case.

3. The Sexual Abuse Survivors' Committee, the Debtor and its insurers are in discussions to move forward with a mediation process to take place after the Bar Date, including selection of a mediator. Part and parcel of laying the groundwork for the mediation is giving all parties an opportunity to prepare for the mediation, including an orderly due diligence process, without the distraction of continued prepetition litigation. Allowing continuation of Prepetition Lawsuits would likely make the mediation process more difficult.

4. The stay of Prepetition Lawsuits also prevents the continued accrual of potential indemnification claims asserted by certain third parties and potential impact of that litigation on the Debtor's insurance proceeds, which could otherwise be used to pay the claims of Sexual Abuse Survivors. The Debtor's estate could also face irreparable harm by risk of judicial

⁴ In addition to the Motion, the Debtor has concurrently filed its *Plaintiff's Motion for a Preliminary Injunction* [Docket No. 5 Adv. Proc. 19-50075] in an adversary proceeding commenced against certain defendants to enjoin the litigation of the Prepetition Lawsuits.

decisions in the Prepetition Lawsuits that are adverse to the Debtor's position.

5. The efforts to obtain consents to the Stipulation have been overwhelmingly successful in that all state court plaintiffs have now voluntarily agreed to be bound. The only parties that have not agreed to the Stipulation are a handful of holdout defendants who have objected to the Stay Injunction in order and/or moved for relief from the automatic stay to enable them to continue their state court litigation without regard to the jeopardy that their parochial interests may create for the Debtor's estate and successful resolution of this case. The Court should grant the relief requested in the Motion and grant the Stay Injunction.

WHEREFORE the Sexual Abuse Survivors' Committee submits that the Motion should be granted.

Dated: April 16, 2019

PACHULSKI STANG ZIEHL & JONES LLP

/s/ James I. Stang

James I. Stang, Esq.
Ilan D. Scharf, Esq.
Joshua Fried, Esq.
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067-4003
Telephone: (310) 277-6910
Facsimile: (310) 201-0760
E-mail: jstang@pszjlaw.com
isharf@pszjlaw.com
jfried@pszjlaw.com

-and-

RUBIN & LEVIN, P.C.

/s/ Meredith R. Theisen

Meredith R. Theisen Esq.
Deborah J. Caruso, Esq.
135 N. Pennsylvania Street, Suite 1400
Indianapolis, IN 46204
Telephone: (317) 860-2877
Facsimile: (317) 453-8602
Email: mtheisen@rubin-levin.net
dcaruso@rubin-levin.net
*Counsel to the Additional Tort
Claimants Committee of Sexual Abuse Survivors*

CERTIFICATE OF SERVICE

I hereby certify that on April 16, 2019, a copy of the foregoing *Statement of Support of Additional Tort Claimants Committee of Sexual Abuse Survivors of Debtor's Motion for Entry of an Agreed Stipulation and Order Enjoining the Continued Prosecution of Certain Pre-Petition Lawsuits* was filed electronically. Notice of this filing will be sent to the following parties through the Court's Electronic Case Filing System. Parties may access this filing through the Court's system.

Nancy D Adams ndadams@mintz.com
Steven Baldwin sbaldwin@psrb.com, rmatthews@psrb.com
Martin Beeler mbeeler@cov.com
Daniel D. Bobilya dan@b-blegal.com, sarah@b-blegal.com
Tonya J. Bond tbond@psrb.com, jscobee@psrb.com
Wendy D Brewer wbrewer@fmdlegal.com, cbellner@fmdlegal.com
Kenneth H. Brown kbrown@pszjlaw.com
Charles D. Bullock cbullock@sbplclaw.com, lhaas@sbplclaw.com
George Calhoun george@ifrahlaw.com, Heather.Simpson@kennedyscmk.com
John Cannizzaro john.cannizzaro@icemiller.com, Thyrza.Skofield@icemiller.com
Deborah Caruso dcaruso@rubin-levin.net, dwright@rubin-levin.net; jkrichbaum@rubin-levin.net; atty_dcaruso@bluestylus.com
Dianne Coffino dcoffino@cov.com
Alex Cunny acunny@manlystewart.com
Edward DeVries edward.devries@wilsonelser.com
Karen M Dixon kdixon@skarzynski.com
Laura A DuVall Laura.Duvall@usdoj.gov, Catherine.henderson@usdoj.gov
Jeffrey B. Fecht jfecht@rbelaw.com, rmclintic@rbelaw.com
Sarah Lynn Fowler sarah.fowler@mbcblaw.com, deidre.gastenveld@mbcblaw.com
Eric D Freed efreed@cozen.com, mmerola@cozen.com
Cameron Getto cgetto@zacfirm.com
Steven W Golden sgolden@pszjlaw.com
Gregory Michael Gotwald ggotwald@psrb.com, scox@psrb.com
Manvir Singh Grewal mgrewal@4grewal.com
Susan N Gummow sgummow@fgppr.com, bcastillo@fgppr.com
Katherine Hance khance@goodwin.com
Jeffrey M. Hester jhester@hbkfirm.com, mhetser@hbkfirm.com
Samuel D. Hodson shodson@taftlaw.com, aolave@taftlaw.com
Jeffrey A Hokanson jeff.hokanson@icemiller.com, bgnotes@icemiller.com
John R. Humphrey jhumphrey@taftlaw.com, aolave@taftlaw.com
Cassandra Jones cjones@wwmlawyers.com, vhonek@wwmlawyers.com
Bruce L. Kamplain bkamplain@ncs-law.com, dhert@ncs-law.com; tbentman@ncs-law.com
Kevin P Kamraczewski kevin@kevinklaw.com
Ronald David Kent ronald.kent@dentons.com
Adam L. Kochenderfer akochenderfer@wolfsonbolton.com
Christopher Kozak ckozak@psrb.com
Carl N. Kunz ckunz@morrisjames.com, jdawson@morrisjames.com

Cynthia Lasher clasher@ncs-law.com, dcouch@ncs-law.com;dhert@ncs-law.com
Martha R. Lehman mlehman@salawus.com,
marthalehman87@gmail.com;pdidandeh@salawus.com;lengle@salawus.com
Michael M. Marick mmarick@skarzynski.com
Phillip Alan Martin pmartin@fmdlegal.com, cbellner@fmhd.com
John McDonald jmcdonald@briggs.com
Mathilda S. McGee-Tubb msmcgee-tubb@mintz.com
Harley K Means hkm@kgrlaw.com, kwhigham@kgrlaw.com;cjs@kgrlaw.com
Geoffrey M. Miller geoffrey.miller@dentons.com, ndil_ecf@dentons.com
Robert Millner robert.millner@dentons.com, ndil_ecf@dentons.com
James P Moloy jmoloy@boselaw.com,
dlingenfelter@boselaw.com;mwakefield@boselaw.com
Ronald J. Moore Ronald.Moore@usdoj.gov
Whitney L Mosby wmosby@bgdlegal.com, fwolfe@bgdlegal.com
Joel H. Norton jnorton@rsslawoffices.com
Michael P. O'Neil moneil@taftlaw.com, aolave@taftlaw.com
Weston Erick Overturf wes.overturf@mbcblaw.com,
deidre.gastenveld@mbcblaw.com;ellen.sauter@mbcblaw.com
Dean Panos dpanos@jenner.com
Stephen Jay Peters speters@kgrlaw.com, acooper@kgrlaw.com
Ginny L. Peterson gpeterson@k-glaw.com, acoy@k-glaw.com
John Thomas Piggins pigginsj@millerjohnson.com, ecfpigginsj@millerjohnson.com
George Plews gplews@psrb.com
Amanda Koziura Quick amanda.quick@atg.in.gov,
Darlene.Greenley@atg.in.gov;Hunter.Schubert@atg.in.gov
Michael L. Ralph mralph@rsslawoffices.com
Melissa M. Root mroot@jenner.com, wwilliams@jenner.com
James Pio Ruggeri jruggeri@goodwin.com
Syed Ali Saeed ali@sllawfirm.com, betty@sllawfirm.com
Ilan D Scharf ischarf@pszjlaw.com
Thomas C Scherer tscherer@bgdlegal.com, fwolfe@bgdlegal.com
David J. Schwab djschwab@rsslawoffices.com
Igor Shleypak ishleypak@fgppr.com, jfecteau@fgppr.com
Casey Ray Stafford cstafford@k-glaw.com, lsmith@k-glaw.com
James I. Stang jstang@pszjlaw.com
Catherine L. Steege cstegee@jenner.com, mhinds@jenner.com;thooker@jenner.com
Laura B. Stephens lbstephens@mintz.com
Meredith R. Theisen mtheisen@rubin-levin.net,
atty_mtheisen@bluestylus.com;mralph@rubin-levin.net
U.S. Trustee ustpregion10.in.ecf@usdoj.gov
Susan Walker susan.walker@dentons.com
Joshua D Weinberg jweinberg@goodwin.com
Mark R. Wenzel mwenzel@salawus.com, pdidandeh@salawus.com
Gabriella B. Zahn-Bielski gzahnbielski@cov.com

I further certify that on April 16, 2019, a copy of the foregoing *Statement of Support of Additional Tort Claimants Committee of Sexual Abuse Survivors of Debtor's Motion for Entry of an Agreed Stipulation and Order Enjoining the Continued Prosecution of Certain Pre-Petition Lawsuits* was served via electronic mail to the following:

United States Olympic Committee: Chris McCleary at Chris.McCleary@usoc.org

The Alexander, a Dolce Hotel and Wyndham Hotel Group, LLC: Daniel M. Eliades at daniel.eliades@klgates.com and David S. Catuogno at david.catuogno@klgates.com

/s/ *Meredith R. Theisen*
Meredith R. Theisen

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